



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,302	09/11/2003	Robert W. Nelson	NELSR-P01	7815
23653 7590 11/25/2008				
FRANK G MORKUNAS				
7750 DAGGET ST				
SUITE 203				
SAN DIEGO, CA 92111				
EXAMINER				
LASTRA, DANIEL				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
11/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/661,302

Applicant(s)

NELSON, ROBERT W.

Examiner

DANIEL LASTRA

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 3-12 and 14-19 have been examined. Application 10/661,302 (ADVERTISING SYSTEM) has a filing date 09/11/2003.

Response to Amendment

2. In response to Non Final rejection filed 06/20/2008, the Applicant filed an Amendment on 09/10/2008, which amended claims 1, 3-7, 10-12, 16-19 and cancel claims 2 and 13.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-12 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magazine Advertising Guide for Small ISVs (http://www.ericSink.com/Magazine_Advertising.html) in view of Evans (US 20020036654).

Claim 1, Magazine Advertising Guide teaches:

An advertising system comprising:

charge an advertising cost for an advertising size *wherein said advertising cost incrementally decreases for each incremental increase in said advertising size* (see page 6).

Magazine Advertising Guide does not expressly teach:

A consumer communication device; a server to which a consumer may link and initiate a consumer inquiry using said consumer communication device and wherein said server stores an advertisement for a party and is programmed to provide an advertising size to a said party for said advertisement. However, Evans teaches that it is old and well known in the promotion art for advertisers to use computers to access an online web server in order to create and select advertisements to be published in different mediums (see paragraph 60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that advertisers in the Magazine Advertising Guide would use computers to access an online web server in order to create and select advertisements to be published in different mediums, as Evans teaches that it is old and well known to do so.

Claim 3, Magazine Advertising Guide teaches:

offer one or more discount amount to said consumer through said server to said consumer communication device on an asking price for a subject matter of said advertisement (see page 6).

Claim 4, Magazine Advertising Guide teaches:

request additional information from said consumer and dependent on answers provided by said consumer, to permit said consumer to select one or more of said one or more discount amount and storing said answers as information about said consumer and making said information available to said party (see page 6 "contract").

Claim 5, Magazine Advertising Guide teaches:

provide to said consumer a certificate reflecting said selection and based on said information (see page 6 “contract”).

Claim 6, Magazine Advertising Guide teaches:

compile a report to said party wherein said report comprises a value between said advertising cost and a frequency of certificates provided on each subject matter of said advertisement (see page 6 “6 insertions at a 12x rate”; see page 7 “graph about the response rate to a magazine ad”).

Claim 7, Magazine Advertising Guide teaches:

receive from said party a discount amount for said consumer to an asking price for a subject matter of said advertisement wherein a larger of said discount amount *given by said party* generates an increase in said advertising *size for said party* and a decrease in said advertising cost for said party(see page 6).

Claim 8, Magazine Advertising Guide teaches:

wherein said discount amount ranges from between none to approximately 90% of said asking price (see page 6).

Claim 9, Magazine Advertising Guide teaches:

wherein decreases to said advertising cost are between approximately none when said discount amount is none and up incrementally to 100% as said discount amount is incrementally increased (see page 6)

Claim 10, Magazine Advertising Guide teaches:

wherein increases to said advertising size over a basic size are between none when said discount amount is none and up incrementally, as overall space permits, as said discount amount is incrementally increased (see page 6).

Claim 11, Magazine Advertising Guide teaches:

compile a report to said party wherein said report comprises a value between said advertising cost and a frequency of consumer requests for a discount to any asking price for any one subject matter of said advertisement (see page 6 "contract"; page 7 "graph about the response rate to a magazine ad").

Claim 12, Magazine Advertising Guide teaches:

An advertising system comprising:

receive from a party one or more discount amount to an asking price for a subject matter of said advertisement and offering said one or more discount amount to said consumer, wherein each incrementally larger of said discount amount offered by said party to said consumer generates an incremental increase in said advertising size and an incremental decrease in said advertising cost (see page 6).

Magazine Advertising Guide does not expressly teach:

A consumer communication device;

A server to which a consumer may link and initiate a consumer inquiry using said consumer communication device and wherein said server is programmed to charge an advertising cost for an advertising size. However, Evans teaches that it is old and well known in the promotion art for advertisers to use computers to access an online web server in order to create and select advertisements to be published in different mediums

(see paragraph 60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that advertisers in the Magazine Advertising Guide would use computers to access an online web server in order to create and select advertisements to be published in different mediums, as Evans teaches that it is old and well known to do so.

Claim 13, Magazine Advertising Guide teaches:

wherein said advertising space comprises any tangible medium from which said advertisement placable and from which said advertisement can be perceived, reproduced, or communicated either directly or with aid of a machine or a device (see page 6).

Claim 14, Magazine Advertising Guide teaches:

wherein said discount amount ranges from between none to approximately 90% of said asking price (see page 6).

Claim 15, Magazine Advertising Guide teaches:

wherein decreases to said advertising cost are between approximately none when said discount amount is none and up incrementally to 100% as said discount amount is incrementally increased (see page 6).

Claim 16, Magazine Advertising Guide teaches:

wherein increases to said advertising size over a basic size are between none when said discount amount is none and up incrementally, as overall space *for an increase in said advertise size* permits, as said discount amount is incrementally increased (see page 6).

Claim 17, Magazine Advertising Guide teaches:

request additional information from said consumer and dependent on answers provided by said consumer, to permit said consumer to select one or more of said one or more discount amount and storing said answers as information about said consumer and making said information available to said party (see page 6).

Claim 18, Magazine Advertising Guide teaches:

provide to said consumer a certificate reflecting said selection and based on said information (see page 6).

Claim 19, Magazine Advertising Guide teaches:

compile a report to said party wherein said report comprises a value between said advertising cost and a frequency of certificates provided on each subject matter of said advertisement (see page 6-7 "graph of the response rate to a magazine ad").

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The Applicant argues that the prior art does not teach Applicant's claimed invention, because according to the Applicant, the MAG reference relates to a discount in advertisement cost based only on duration, not size. The Examiner answers that "advertising size" according to Applicant's specification includes "byte size" (see page 8, lines 20-23) and publishing a full page in every issue that a magazine publish, as taught by MAG would read the limitation "increase size". Therefore, contrary to Applicant's argument, the MAG reference teaches Applicant's claimed invention.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DANIEL LASTRA** whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571)272-6722. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

/DANIEL LASTRA/
Examiner, Art Unit 3688
November 20, 2008